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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-580-893

Fine Denier Polyester Staple Fiber from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that fine denier polyester staple fiber (fine denier PSF) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2016, through March 31, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Celeste Chen, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4081 or (202) 482-0890 respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 2018, Commerce published the *Preliminary Determination* of this antidumping duty investigation, as provided by section 735 of the Tariff Act of 1930, as amended (the Act). Commerce preliminarily found that fine denier PSF from Korea was sold at

LTFV.<sup>1</sup> A summary of the events that have occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>2</sup> The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Commerce has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final determination in this investigation is now May 23, 2018.<sup>3</sup>

#### Scope Comments

We provided parties an opportunity to provide comments on all issues regarding product coverage (*i.e.*, scope).<sup>4</sup> Certain interested parties commented on the scope of the investigation as it appeared in the *Preliminary Determination*.<sup>5</sup> For a summary of the product coverage comments and rebuttals submitted to the record of this investigation, and our accompanying

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<sup>1</sup> See *Fine Denier Polyester Staple Fiber from Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 83 FR 660 (January 5, 2018), and accompanying Preliminary Decision Memorandum (collectively, *Preliminary Determination*).

<sup>2</sup> See Memorandum, "Fine Denier Polyester Staple Fiber from Korea: Issues and Decision Memorandum for the Final Affirmative Determination in the Less Than Fair Value," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

<sup>4</sup> See Memorandum, "Due Dates for Case and Rebuttal Briefs Regarding the Scope," dated December 11, 2017

<sup>5</sup> See *Preliminary Determination*.

discussion and analysis of the comments and rebuttals that were timely received, see the Final Scope Decision Memorandum.<sup>6</sup> Based on parties' comments, we made no changes to the scope of the investigation, as it appeared in the *Preliminary Determination*.<sup>7</sup> The product covered by this investigation is fine denier PSF from Korea. For a complete description of the scope of this investigation, see Appendix I.

### Verification

As provided in section 782(i) of the Act, from January 15 through 19, 2018, we conducted a verification of the information reported by the mandatory respondent Toray Chemical Korea Inc. (TCK), for use in this final determination.<sup>8</sup> We used standard verification procedures, including an examination of relevant accounting and production records and original source documents provided by the respondent.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of these issues is attached to this notice as Appendix II.

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<sup>6</sup> See Memorandum, "Fine Denier Polyester Staple Fiber from the People's Republic of China, India, Republic of Taiwan, and Korea: Scope Comments Decision Memorandum for the Final Determinations," dated January 16, 2018 (Final Scope Memorandum).

<sup>7</sup> While we made no changes to the scope based on parties' comments, we discovered that we inadvertently included the phrase "or pre-opened" in the scope in the *Preliminary Determination*. This phrase was not included in the scope in the *Initiation* (see *Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, Korea, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 29023 (*Initiation*)). We have corrected this error by removing the phrase "or pre-opened" from the scope for this final determination.

<sup>8</sup> See Memorandum, "Verification of the Sales Response of Toray Chemical Korea Inc. in the Antidumping Investigation of Fine Denier Polyester Staple Fiber from the Republic of Korea," dated March 7, 2018; and Memorandum, "Verification of the Cost Response of Toray Chemical Korea, Inc. in the Antidumping Duty Investigation of Fine Denier Polyester Staple Fiber from the Republic of Korea," dated March 22, 2018.

### Application of Adverse Facts Available (AFA)

As in the *Preliminary Determination*, pursuant to section 776(a) and (b) of the Act, Commerce has continued to base Huvis Corporation's (Huvis) and Down Nara, Co., Ltd.'s (Down Nara) dumping margin on the facts otherwise available, with an adverse inference, because the companies did not respond to Commerce's questionnaire or otherwise participate in the investigation.<sup>9</sup> In addition, as part of the AFA determination with respect to Down Nara, Commerce has determined that Koreco Synthetic Fiber Co., Ltd. is the successor-in-interest to Down Nara and we have updated the rate chart below accordingly.<sup>10</sup>

### Changes Since the Preliminary Determination

Based on our analysis of the comments received, we made changes to the dumping margin calculations for TCK. For further discussion, *see* the Issues and Decision Memorandum.

### All-Others Rate

Section 735(c)(5)(A) of the Act provides that in the final determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis*

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<sup>9</sup> See Huvis' Letter, "Fine Denier Polyester Staple Fiber from the Republic of Korea: Notice of Intent Not to Participate," dated August 10, 2017 and Down Nara did not respond to Commerce's AD questionnaire.

<sup>10</sup> For further information, *see* Issues and Decision Memorandum at Comment 2 and memorandum "Antidumping Duty Investigation of Fine Denier Polyester Staple Fiber from the Republic of Korea: Proprietary Discussion of Issues Contained in the Issues and Decision Memorandum" dated concurrently with this *Federal Register* notice.

or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all-other producers and/or exporters, including averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated.” Because (1) the dumping margin for Huvis Corporation and Down Nara, Co., Ltd. is based on AFA and (2) the dumping margin for Toray Chemical Korea Inc. (TCK) is zero, pursuant to section 735(c)(5)(B) of the Act, we calculated the “all-others” rate as a simple average of the dumping margins of Huvis Corporation, Down Nara, Co., Ltd. and TCK.

#### Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist:

<b>Exporter/Producer</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
Toray Chemical Korea Inc.	0.00%
Huvis Corporation	45.23
Down Nara, Co., Ltd., Down-Nara, Co., Ltd. (AKA Koreco Synthetic Fiber Co., Ltd.)	45.23
All-Others	30.15

Consistent with section 735(a)(4) of the Act, based on the zero rate for TCK, Commerce determined that TCK has not sold merchandise which it produced and exported at LTFV.

#### Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate

entries of fine denier PSF from Korea as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after January 5, 2018, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*.

Further, pursuant to section 735(c)(1)(B) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise, except as explained below; and (3) the cash deposit rate for all other producers and/or exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margin for TCK is zero, entries of shipments of subject merchandise both produced and exported by TCK will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP to not suspend liquidation of entries of subject merchandise exported and produced by TCK. Entries of shipments of subject merchandise from TCK in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, are subject to the provisional measures at the all-others rate.

Because the final estimated weighted-average dumping margin for subject merchandise exported and produced by TCK is zero, entries of shipments of subject merchandise from this

producer/exporter combination will be excluded from the antidumping duty order. This exclusion is not applicable to merchandise exported to the United States by TCK in any other producer/exporter combinations or by third parties that sourced subject merchandise from the excluded producer/exporter combination.

These suspension of liquidation instructions will remain in effect until further notice.

#### Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the International Trade Commission (ITC) of its final affirmative determination. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2)(B) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of fine denier PSF from Korea no later than 45 days after Commerce's final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on appropriate imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification to Interested Parties

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

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Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

May 23, 2018

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Date

## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is fine denier polyester staple fiber (fine denier PSF), not carded or combed, measuring less than 3.3 decitex (3 denier) in diameter. The scope covers all fine denier PSF, whether coated or uncoated. The following products are excluded from the scope:

(1) PSF equal to or greater than 3.3 decitex (more than 3 denier, inclusive) currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 5503.20.0045 and 5503.20.0065.

(2) Low-melt PSF defined as a bi-component polyester fiber having a polyester fiber component that melts at a lower temperature than the other polyester fiber component, which is currently classifiable under HTSUS subheading 5503.20.0015.

Fine denier PSF is classifiable under the HTSUS subheading 5503.20.0025. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

#### **I. Summary**

#### **II. List of Issues**

Comment 1: Whether to Apply Total AFA to TCK Based on Verification Comment  
1(a): Minor Corrections

Comment 1(b): Tolling Arrangement

Comment 1(c): Misreported Sales of Products Not Produced

Comment 1(d): Failure to Provide Correct Translations

Comment 2: Whether to Apply AFA to Down Nara

Comment 3: Whether Commerce's Calculation of the "All-Others" Rate is Supported  
by its Practice and Is Consistent with the Statute and Court Precedent

Comment 4: Whether the Totality of Circumstances Regarding Cost Reporting  
Warrants Application of Total or Partial AFA.

Comment 5: Whether Commerce Should Adjust the Purchases of EG for Physical  
Inventory Adjustments and Certain Ancillary Costs.

Comment 6: Whether Commerce Should Adjust TCK's Reported Unit Costs of  
Manufacture for the Subject Fine Denier PSF

Comment 6(a): Pattern of Understatement

Comment 6(b): Physical Characteristics

Comment 6(c): SAP® System

Comment 6(d): PET Chips

Comment 6(e): TPA Consumption

Comment 6(f): Affiliated PET Chips Purchases

Comment 7: Whether Commerce Should Adjust the Affiliated Trading Company's  
SG&A Expense Rate Calculation

Comment 8: Whether Commerce Should Adjust the Cost and Sales of Certain Product  
Codes

Comment 9: Whether Commerce Should Deny the Offset to G&A Expenses

Comment 10: Whether Commerce Should Adjust the Non-Operating Income Used to  
Offset the G&A and Financial Expenses

Comment 11: Whether Commerce Should Continue to Apply the Affiliated Party  
Purchases Adjustment

Comment 12: Whether Commerce Should Eliminate the Unreconciled Difference  
Adjustment to TCK's Reported Costs

#### **III. Background**

#### **IV. Scope of the Investigation**

#### **V. Discussion of the Issues**

#### **VI. Recommendation**

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